



Public Health Professionals Gateway

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Public Health Law News

February 2023





Public Health Law Program
Center for State, Tribal, Local, and Territorial Support
Centers for Disease Control and Prevention

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Announcements

Applications Open | American Bar Association Health Law Section Diversity & Inclusion Fellowship Program

The American Bar Association (ABA) Health Law Section Diversity & Inclusion Fellowship Award will be awarded to up to five young lawyers who meet [ABA Goal III Diversity criteria](#)  [\[PDF – 243 KB\]](#) , are actively practicing health law, and

are interested in expanding their career development opportunities through networking within the Health Law Section. Fellows will serve from September 1, 2023–August 31, 2024. Applications are open through **April 17**. [Learn more and apply](#) .

Applications Open | Bureau of Justice Assistance Fiscal Year 2023 Second Chance Act Pay for Success Program

Grant applications are now open for the Bureau of Justice Assistance Second Chance Act of 2007 (Public Law 110-199), reauthorized by the First Step Act of 2018. This grant funding opportunity is designed to “help communities develop and implement comprehensive and collaborative strategies that address the challenges posed by reentry and recidivism reduction.” Applications are due **March 21**. Positions start in January, May/June, or August/September. [Learn more and apply](#) .


New Peer Group | The Network for Public Health Law Local Privacy Officer Peer Group

The Network for Public Health Law is launching a Local Privacy Officer Peer Group that will provide support, resources, and learning opportunities to privacy officers at local public health agencies. Members will participate in quarterly webinars and will be included in a directory of local privacy officers. Members will also have the opportunity to interact with one another and connect directly to other local privacy officers around the country through the Peer Group’s listserv. Those interested in joining the group can [sign up here](#) . The Network has an existing peer group for privacy officers at state health departments. More information on the State Privacy Officer Peer Group can be found [here](#) .

Call for Public Input | National Nature Assessment

The Office of Science and Technology Policy, on behalf of the United States Global Change Research Program, is requesting public input concerning the [National Nature Assessment](#) . They are accepting requests for further information through **March 31**. [Learn more](#) .

Call for Submissions | ASLME 3rd Annual Health Law and Anti-Racism Graduate Student Writing Competition

The American Society of Law, Medicine, and Ethics will accept submissions for the 3rd Annual Health Law and Anti-Racism Graduate Student Writing Competition through **July 1**. Papers must focus on health law within the context of anti-racism. [Learn more and submit an abstract](#)  [PDF – 93 KB] .

Registration Open | ABA 24th Annual Emerging Issues in Healthcare Law Conference

Registration is open for the American Bar Association 24th Annual Emerging Issues in Healthcare Law Conference to be held **March 8–11** in **San Diego**. The conference covers a wide range of topics relevant to healthcare law. Registration is open through **March 11**. [Learn more and register](#) .

Call for Abstracts | APHA 2023 Annual Meeting and Expo

The Law Section of the American Public Health Association (APHA) is accepting abstracts for the 2023 APHA Annual Meeting and Expo through **March 31**. They are seeking submissions that focus on current hot topics in public health law and are relevant to the theme “Creating the Healthiest Nation: Overcoming Social and Ethical Challenges.” The conference will be held **November 12–15** in **Atlanta**. [Learn more and submit an abstract](#) .


Registration Open | NACCHO 2023 Preparedness Summit

Registration is open for the 2023 National Association of County and City Health Officials (NACCHO) Preparedness Summit to be held **April 24–27** in **Atlanta**. The Preparedness Summit is the first and longest running preparedness conference. The theme is “Recover. Renew. Reprioritizing All-Hazards Preparedness.” Advance rate will close on **March 31**. [Learn more and register](#) .


Registration Open | 46th Annual Health Law Professors Conference

Registration is open for the American Society of Law, Medicine, and Ethics 46th Annual Health Law Professors Conference to be held **June 7–9** in **Baltimore**, hosted at the University of Maryland Francis King Carey School of Law. The conference aims to bring together professionals within the health law community. [Learn more and register](#) .


National Writing Competition | *American Indian Law Review*

The *American Indian Law Review* is welcoming papers from students at accredited law schools in the United States and Canada. Papers will be accepted on any legal issue specifically concerning American Indian people or other Indigenous people. The competition deadline is February 28. [Learn more](#) .

Registration Open | Pre-Law Advisors Training Conference




Registration is open for the Pre-Law Advisors Training Conference **March 7–8** in **Albuquerque**. The conference is hosted by the American Indian Law Center and is for those who advise American Indian and Alaska Native students interested in applying to law school. [Learn more and register](#) .

Save the Date | National Indian Health Board 2023 National Tribal Public Health Conference


The National Indian Health Board will host the National Tribal Public Health Conference **May 1–5** in **Anchorage**. This annual event is dedicated to elevating the impact of public health on tribes and has historically attracted more than 700 professionals, leaders, advocates, and researchers. [Learn more](#) .

Legal Tools & Trainings


Webinar | Fighting for Public Health: How Do We Strengthen Public Health Advocacy at Local, State, and National Levels?

The Network for Public Health Law is hosting a webinar on **February 23 at 1:00 pm (EST)** titled “Fighting for Public Health: How Do We Strengthen Public Health Advocacy at Local, State, and National Levels?” The webinar will highlight key takeaways and provide insights on [Fighting for Public Health: Findings, Opportunities, and Next Steps from a Feasibility Study to Strengthen Public Health Advocacy](#)  [PDF – 253 KB] . [Learn more and register](#) .


Webinar | “Legal Epi At Lunch: Let’s Talk MonQcle”

The Temple University Center for Public Health Law Research (CPHLR) at the Beasley School of Law is hosting a webinar on **April 11 at 12:00 pm (EST)** titled “Legal Epi At Lunch: Let’s Talk MonQcle.” The webinar will answer questions regarding this software for scientific legal mapping developed by CPHLR. [Learn more and register](#) .

Webinar Series | Equity in Action: Policymaking for Community Health


ChangeLab Solutions is offering a four-part webinar series highlighting “innovative policy strategies” to address structural inequities. Stay tuned for further information on how to register for the three remaining episodes. [Learn more](#) .

Article | “Judicial Review of Public Health Powers Since the Start of the COVID-19 Pandemic: Trends and Implications”


The American Journal of Public Health recently published an article titled “Judicial Review of Public Health Powers Since the Start of the COVID-19 Pandemic: Trends and Implications.” The article considers the implications of several judicial decisions for public health officials and their ability to exercise public health powers. [Read the article](#) .

Job Openings



Policy Analyst | America’s Essential Hospitals

America’s Essential Hospitals is seeking candidates for a policy analyst position. This analyst will serve as a subject matter expert regarding health equity, healthcare quality, and public health. Candidates should have five years of experience in health policy or government relations with an advanced degree in public health, health law, or another relevant field. [Learn more and apply](#) .


Public Health Attorney III | South Carolina Department of Health and Environmental Control

The South Carolina Department of Health and Environmental Control is seeking candidates for a public health attorney III. This attorney will provide legal support for highly sensitive and complex public health investigations and interventions. Candidates should have three years of experience as an attorney practicing law. [Learn more and apply](#) .


Assistant County Attorney | Saratoga County Department of Health

The Saratoga County Department of Health is seeking candidates for an assistant county attorney. This attorney will serve as legal counsel for the employees and officials of Saratoga County as well as establish regulations, policies, and procedures in regard to public/environmental health. Candidates should have two years of legal experience. [Learn more and apply](#)  [PDF – 914 KB] .


Assistant General Counsel, Health & Research Affairs | Yale University

Yale University is seeking candidates for the assistant general counsel position. The assistant general counsel will advise Yale University on strategic alliances, complex transactions, and regulatory compliance related to research. Candidates should have a JD and three years of experience in a related field. [Learn more and apply](#) .

Senior Program Coordinator | The Network for Public Health Law

The Network for Public Health Law is seeking a senior program coordinator to support the national director in key initiatives and administrative activities. Candidates should have a bachelor's degree and five years of experience in administrative support. Interest in public health and experience working with nonprofit organizations is preferred. [Learn more and apply](#) .

Executive Director | Institute for Health Policy, College of Health and Human Services at the University of New Hampshire

The Institute for Health Policy (IHPP) is hiring for an executive director. IHPP is an applied research institute located within the College of Health and Human Services at the University of New Hampshire. The executive director will provide leadership across five focal areas: delivery system and payment reform, health analytics and informatics, health law and policy, long-term care and aging, and public health and health promotion. [Learn more and apply](#) .

Top Story

National: [Two laws provide greater accommodations for pregnant and nursing workers](#)

NC Health News (1/30/2023) Rachel Crumpler

Story Highlights



Recent federal legislation has afforded protections for lactating employees to have time for breaks to express milk and the right to other reasonable accommodations. These measures were included in the \$1.7 trillion federal government spending package that was signed into law in December 2022.

The new Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act) and the Pregnant Workers Fairness Act expand on the 2010 federal law, Break Time for Nursing Mothers, which granted protections to some lactating employees, ensuring that they had reasonable break time and a private place to pump at work.

The PUMP Act requires the extension of nursing accommodations to an additional 9 million women. Under the PUMP Act, nearly all lactating employees are entitled to reasonable break time and a private place to express breast milk, other than a bathroom, for two years after the birth of a child. However, airline workers and employers with fewer than 50 employees may qualify for exemptions, limiting the new law.

The Pregnant Workers Fairness Act requires employers to provide reasonable accommodations for pregnant employees or those with any childbirth-related conditions.

These new laws mark significant changes for women, who make up nearly 60 percent of the workforce. However, Lisa Finaldi, the community engagement leader at Family Forward NC, says “other benefits, such as affordable childcare and extended paid parental leave, are also needed.”

[Editor's note: Read CDC's research on [breastfeeding](#), learn more about the [PUMP Act](#) , and the [Pregnant Workers Fairness Act](#) .

Briefly Noted

California: [L.A. students will be able to carry Narcan in schools under updated policy](#) 

Los Angeles Times (02/01/2023) Emily Alpert Reyes

[Editor's note: Learn more about [naloxone](#).]


Indiana: [New law highlights the need to test children for lead](#) 

CBS4 News (01/11/2023) Melissa Crash

[Editor's note: Read [HB 1313](#) , the [Indiana Lead Free campaign](#) , and [childhood lead poisoning prevention](#).]

Kentucky: [Group makes first funding award to combat opioid epidemic](#) 

AP (01/31/2023) Bruce Schreiner

[Editor's note: Learn more about the [opioid settlement in Kentucky](#) .]

Minnesota: [Walz signs legislation codifying reproductive healthcare rights](#) 

KSTP (01/31/2023) Kelsey Christensen, Krystal Frasier, Tom Hauser, and Ben Henry

[Editor's note: Read the [Protect Reproductive Options Act](#)  and learn more about [reproductive health](#).]

New Mexico: [\\$45 million headed to local New Mexico parks and communities](#) 

KRQE (01/13/2023) Curtis Segarra

[Editor's note: Read the [press release](#)  and learn more about [physical activity](#).]


Texas: [Austin public health gets \\$2 million in federal money to fight fentanyl overdoses](#) 

Austin American-Statesman (01/17/2023) Nicole Villalpando

[Editor's note: Learn more about [preventing opioid overdose](#).]

Tribal: [VA to waive medical copays for Native American, Alaskan Native vets](#) 

Military.com (01/11/2023) Patricia Kime

[Editor's note: Learn more about the [proposed rule](#) .]

Tribal: [U.S. Supreme Court adds more Indian Country cases to docket](#) 

Indianz.com (01/24/2023) Acee Agoyo

[Editor's note: Learn more about [tribal health](#).]

Global Public Health Law News

Canada: [Canadian province experiments with decriminalizing hard drugs](#) 

BBC (01/30/2023) Max Matza

[Editor's note: Learn more about [illicit drug use](#).]

Mexico: [In Mexico, smoking on the beach could now cost you \\$500](#) 

The Washington Post (01/24/2023) Hannah Sampson

[Editor's note: Learn more about [smoking and tobacco use](#) and [secondhand smoke](#).]

Court Filings & Opinions

North Carolina

The Court of Appeals of North Carolina affirmed a lower court ruling, upholding a minor special use permit for the Durham Public Schools Board of Education to develop a new high school campus. The appellants, neighborhood residents, argued that the Board of Adjustment improperly excluded witness testimony during review of the permit. The appellants admitted testimony that the development and school would cause an increase in light, noise, and

environmental pollution, and traffic patterns, which disproportionately impacts communities of color and can be “a danger to the public safety.” The testimony included one resident’s witness statement that relied on general information obtained from US Environmental Protection Agency and no definitive evidence to rebut the issuance of the permit and evidence the applicant provided, nor were the residents considered experts on associated health effects. Therefore, residents’ testimony was excluded from the record because of a lack of evidence supporting their claims to rebut the applicant’s case, which therefore failed to demonstrate that the lower court erred in granting the minor special use permit.

[Young v. City of Durham](#)

Court of Appeals of North Carolina

No. COA22-578

Decided January 17, 2023

Opinion by Judge Gore

New Jersey

In a recent court case involving a high-profile healthcare company, the United States District Court for the District of New Jersey ruled to move forward with a case brought to court by the Plaintiff, Johnson & Johnson (“J&J”), alleging that the Defendant, Save on SP, “created a plan to deplete J&J’s payment assistance program for patients using certain of its costly, specialty prescription medications.” The referenced J&J payment assistance program, known as “CarePath,” helps patients afford costly out-of-pocket medical expenses for prescription biologic drugs, for many of which there are no less costly generic versions available to patients. Specifically, J&J alleges that the Defendant deceptively coerces patients into the “SaveOnSP” copay assistance program, which Save on SP knows actively violates the patients’ terms and conditions for their enrollment in J&J’s CarePath program. This, the Plaintiff further alleges, combined with the inflated copay amounts decided upon by Save on SP and then charged to CarePath for these specialty medications, results in the rapid depletion of funds in J&J’s financial assistance program.

The Defendant, Save on SP, moved to dismiss J&J’s allegation of the creation of a plan to deplete J&J’s payment assistance program for patients on the grounds that the Plaintiff’s claims are preempted by the Employee Retirement Income Security Act of 1974 (ERISA), a federal law which sets the minimum standards for health insurance plans to provide protection for enrollees. However, the court decided that J&J’s claims did not have a connection to an ERISA plan for preemption purposes and “do not undermine ERISA’s objectives to facilitate standard procedures and uniformity” in health plans, thereby dismissing Save on SP’s argument. Next, the court affirmed that the Plaintiff plausibly pled that Save on SP had used deceptive business practices to target CarePath enrollees, resulting in “a threat to the health or safety of the public at large,” and specifically resulting in economic injury to the Plaintiff. Lastly, the court disagreed with the Defendant’s argument that the SaveOnSP Program did not interfere with the contractual relationship between CarePath and CarePath’s enrollees, given the fact that J&J sufficiently pled that the SaveOnSP Program intentionally targets patients in an existing contractual relationship with CarePath. Specifically, J&J requires that enrollees not participate in another offer when they use the CarePath copay assistance program; however, each time a patient uses the CarePath copay assistance program funds while also enrolled in the SaveonSP Program, a breach of contract occurs. With the Defendant’s case dismissal arguments rejected, the court case will proceed to trial.

[Johnson & Johnson Health Care Systems Inc. v. Save on SP, LLC](#)

United States District Court for the District of New Jersey

No. 22-2632

Decided January 25, 2023

Opinion by U.S.D.J., John Michael Vazquez

California

The California Court of Appeals ruled to affirm a trial court’s judgement of insufficient evidence of a Los Angeles hospital’s alleged engagement in insurance fraud. The original case, brought forth in 2016, was led by the State of California and the California Department of Insurance (CDI). The original case alleged Encino Hospital of submission of false insurance claims and illegal patient steering—the referral of patients from one hospital/facility to another in exchange for compensation. The State of California and CDI claimed that the hospital’s detox service insurance claims were false in that the hospital didn’t have the proper licensing as a chemical dependency recovery hospital (CDRH) to submit legitimate insurance claims for detoxification services. Ultimately, the evidence presented by the State of California and CDI in the trial court case were found to be insufficient in supporting the allegations of insurance fraud and patient steering.

CDI appealed the judgement, claiming that the trial court erred in several notable ways: (a) by incorrectly applying the Insurance Fraud Prevention Act's (IFPA) rule concerning insurance fraud to only fraudulent claims as opposed to false claims, (b) by misinterpreting patient steering as applying only to situations in which there is an exchange of monetary value rather than also to include in its definition the exchange of services, and (c) by denying the case a jury trial and a continuation of the trial. The appeals court reviewed the trial court's judgment, and the appeals court sided with the trial court's ruling that there was no evidence to support the claim that Encino Hospital submitted a false claim to any insurer since the hospital's detoxification center may legitimately provide and bill detox services as supplemental to its other acute care services without the required licensing of a CDRH. The appeals court also ruled in agreement with the trial court that CDI failed to present adequate evidence of patient steering, in that no written or tacit agreement had been made with Encino Hospital's detox facility and an external referral company. Lastly, the appeals court affirmed the trial court's denial of a jury trial for the case, given that the detox facility licensing matter is a question of administrative law rather than that of a jury to decide upon, and also given the consensus that the IFPA's rule concerning insurance fraud is essentially equitable in nature (i.e., enacted "to enforce public rights, not to vindicate individual injuries").

[State of California ex rel. Rapier v. Encino Hospital Medical Center](#) 

Court of Appeals of California, Second District, Division One

Nos. B302426, B303196

Decided December 21, 2022 [[Modified](#)  January 20, 2023]

Opinion by Judge William Fahey

COVID-19 Court Filings & Opinions

Iowa

Shari Hintermeister filed a claim for pandemic unemployment assistance coverage (PUA). She received benefits for the two-week period she was required to self-quarantine after a positive test result for COVID-19, but she was denied benefits outside that period. The denial was upheld by an administrative law judge and the Employment Appeal Board, and the district court on judicial review, all of which found that Hintermeister was not eligible for PUA under any of the applicable provisions. Reviewing this agency action within the confines of Iowa Code chapter 17A (2021), we affirm.

[Hintermeister v. Emp't Appeal Bd.](#) 

Court of Appeals of Iowa


No. 22-0187

Filed January 25, 2023

Opinion by C.J. Bower

Quote of the Month

"We know there will be times when teens are with their friends and not close to the nurse's office," said Chelsea Shover, a UCLA researcher who has taught teens about naloxone. "If their friend has Narcan, their friend can save their life."

[Editor's note: This quote is from the above [L.A. students will be able to carry Narcan in schools under updated policy](#) , Emily Alpert Reyes, Los Angeles Times, (02/02/2023).]

About *Public Health Law News*



CDC's Public Health Law Program (PHLP) works to improve the health of the public by performing research, creating tools, and providing training to help practitioners understand and make law and policy decisions. Every month, PHLP publishes the *Public Health Law News* with announcements, legal tools, court opinions, job openings & more.

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Last Reviewed: February 16, 2023